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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 SAN FRANCISCO DIVISION

11 GOOGLE LLC,

12 Plaintiff,

13 vs.

14 SONOS, INC.,

15 Defendant.

Case No. 3:20-cv-06754-WHA

Related to Case No. 3:21-cv-07559-WHA

**RESPONSE TO SONOS'S MOTION
REQUESTING PATENT SHOWDOWN
TRIAL DATE TO BE MOVED**

1 Last October, the Court told the parties to be ready for a “prompt trial” following the patent
 2 showdown summary judgment hearing on June 9, 2022. Dkt. 68 at 3. The Court warned the parties
 3 that the showdown proceedings may get in the way of previously-scheduled holidays and vacations.
 4 Dkt. 73 at 4:25-5:1. Sonos now moves to delay the patent showdown trial based on its expert’s
 5 vacation, which starts on the third day of the showdown trial. Sonos does not explain why its expert
 6 cannot testify on one of the first two days of trial, or why he cannot adjust his travel by a day or two.

7 Google has a conflict with the currently-scheduled patent showdown trial as well. One of
 8 its technical experts has a directly overlapping ITC hearing that starts on the same day as the
 9 showdown trial. But Google will seek to resolve that conflict through flexible scheduling of that
 10 expert’s testimony in this case. Accordingly, Google does not join Sonos’s request to continue the
 11 July 18 showdown trial date.

12 **I. BACKGROUND AND ARGUMENT**

13 Sonos claims it hired the expert in question, Dr. Almeroth, in March 2021—seven months
 14 before the Court told the parties to be ready for a “prompt trial” following the patent showdown
 15 summary hearing on June 9, 2022. Dkt. 246-1 ¶ 3. Sonos also claims that Dr. Almeroth finalized
 16 his vacation plans in October 2021, the same month the Court warned the parties about the timing
 17 of the patent showdown. *Id.* After learning about the timing of the patent showdown last October,
 18 Sonos waited six months to raise Dr. Almeroth’s vacation as a potential conflict.¹

19 Dr. Almeroth’s 21-day vacation begins on July 20, 2022, the third day of the showdown
 20 trial. Although Dr. Almeroth is apparently available to testify on July 18 or July 19, Sonos contends
 21 that it is not “reasonable to expect that the jury can hear preliminary instructions from the Court,
 22 opening statements from both parties, Dr. Almeroth’s infringement testimony, all of Google’s
 23 invalidity testimony and evidence, and Dr. Almeroth’s responsive validity testimony in only two
 24 trial days.” Dkt. 246 at 2. Although having Dr. Almeroth adjust his travel schedule would be a
 25
 26

27 ¹ Although Sonos recently moved the Court for “additional guidance on when [the Court] would
 28 expect to conduct a patent showdown trial” (Dkt. 205), Sonos did not mention Dr. Almeroth’s
 vacation as a potential issue in that filing.

1 reasonable solution to this issue, Sonos does not explain why Dr. Almeroth cannot adjust his travel
2 schedule.

3 As Sonos notes, one of Google’s technical experts also has a conflict the week of July 18.
4 Dr. Schonfeld is scheduled to participate in a hearing before the International Trade Commission
5 starting on the same day as the patent showdown. Declaration of Lindsay Cooper (“Cooper Decl.”)
6 ¶ 5. Despite this, Google is prepared to do its best to make the current trial date work, for example
7 by seeking leave to take Dr. Schonfeld’s testimony out of turn, to extend the trial window one day
8 in either direction to avoid a complete overlap of the showdown trial and ITC hearing, or to make
9 other nominal changes to the extent that they are permitted.

10 If the Court is inclined to move the date of the currently-scheduled showdown trial in view
11 of Dr. Almeroth’s vacation, Google respectfully requests that its lead trial counsel’s hearing and
12 trial schedule be taken into account in resetting the trial date. Google’s lead counsel has conflicts
13 on the following dates due to previously-scheduled trials or hearings requiring his attendance:

- 14 • August 1–31, 2022;
- 15 • September 7, 2022;
- 16 • September 28, 2022
- 17 • October 17–21, 2022;
- 18 • October 24 – November 14, 2022;
- 19 • November 28 – December 16, 2022;
- 20 • January 4, 2023;
- 21 • January 9 – 20, 2023;
- 22 • January 23 – February 3, 2023;
- 23 • February 13 – March 10, 2023;
- 24 • March 31 – April 7, 2023;
- 25 • April 10, 2023.

26 See Cooper Decl. ¶ 3. In addition, if the showdown trial is rescheduled due to Dr. Almeroth’s
27 vacation, Google respectfully requests that the Court take into account its own experts’ conflicts on
28 the following dates, all of which are due to previously-scheduled trials in other matters:

- August 1 – September 2, 2022;
- September 12–16, 2022;
- September 19–23, 2022
- September 26–30, 2022;
- October 10–14, 2022;
- October 17–21, 2022;
- November 14 – December 23, 2022.

See Cooper Decl. ¶¶ 4–6. Taking these two sets of conflicts together, in 2022, Google’s lead counsel and experts are available for a rescheduled patent showdown trial the week of October 3–7, 2022. Should the Court decide to continue the current showdown trial pursuant to Sonos’s request, Google respectfully requests that the Court move the trial window to this week.

DATED: May 9, 2022

QUINN EMANUEL URQUHART & SULLIVAN,
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By /s/ Charles K. Verhoeven

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CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure and Local Rule 5-1, I hereby certify that, on May 9, 2022, all counsel of record who have appeared in this case are being served with a copy of the foregoing via the Court's CM/ECF system and email.

/s/ Charles K. Verhoeven
Charles K. Verhoeven